

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

JACQUELINE KURTA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

## DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 450 Deportation
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Voting	<input type="checkbox"/> 861 HIA (1395ft)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land		<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 555 Prison Condition		
<input type="checkbox"/> 290 All Other Real Property			<input type="checkbox"/> IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	
			<input type="checkbox"/> LABOR	
			<input type="checkbox"/> 710 Fair Labor Standards Act	
			<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
			<input type="checkbox"/> FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:  
Fair Debt Collection Practices Act

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S)

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/13/12

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

JACQUELINE KURTA : CIVIL ACTION  
v. :  
NCO FINANCIAL SYSTEMS, INC. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

04/13/12  
Date

Craig Thorkimme  
Attorney-at-law

Jacqueline Kurta  
Attorney for

215 540 8888

811 188 2864

kimmel@creditlan.com

Telephone

FAX Number

E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1013 San Diego Rd, Santa Barbara, CA 93103

Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction:

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

**CIVIL: (Place  in ONE CATEGORY ONLY)**

*A. Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts

*B. Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts

2.  FELA

2.  Airplane Personal Injury

3.  Jones Act-Personal Injury

3.  Assault, Defamation

4.  Antitrust

4.  Marine Personal Injury

5.  Patent

5.  Motor Vehicle Personal Injury

6.  Labor-Management Relations

6.  Other Personal Injury (Please specify)

7.  Civil Rights

7.  Products Liability

8.  Habeas Corpus

8.  Products Liability — Asbestos

9.  Securities Act(s) Cases

9.  All other Diversity Cases

10.  Social Security Review Cases

(Please specify)

11.  All other Federal Question Cases 15 V.S.C. 1092

(Please specify)

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Craig Thor Kummel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 04/13/12

Attorney-at-Law

51100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/13/12

Attorney-at-Law

51100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

JACQUELINE KURTA, )  
Plaintiff )  
v. )  
NCO FINANCIAL SYSTEMS, INC., )  
Defendant )  
Case No.: )  
COMPLAINT AND DEMAND FOR )  
JURY TRIAL )  
(Unlawful Debt Collection Practices)

## COMPLAINT

JACQUELINE KURTA (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate

1 United States district court without regard to the amount in controversy," and 28  
2 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
3 under the laws of the United States.  
4

5 3. Defendant conducts business and has an office in the Commonwealth  
6 of Pennsylvania, and therefore, personal jurisdiction is established.  
7

8 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).  
9

## 10 PARTIES

11 5. Plaintiff is a natural person residing in Santa Barbara, California  
12 93103.  
13

14 6. Plaintiff is a person granted a cause of action under the FDCPA. See  
15 U.S.C. §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D.  
16 Pa. Dec 22, 2000).

17 7. Defendant is a national debt collection company with its corporate  
18 headquarters located at 507 Prudential Road in Horsham, Pennsylvania, 19044.  
19

20 8. Defendant is a "debt collector" as that term is defined by 15 U.S.C. §  
21 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.  
22

23 9. Defendant acted through its agents, employees, officers, members,  
24 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
25 representatives, and insurers.

## FACTUAL ALLEGATIONS

10. At all relevant times, Defendant was contacting Plaintiff in an attempt to collect the debt of other persons.

11. Upon information and belief, the alleged debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.

12. Beginning in or around August 2011, and continuing through February 2012, Defendant repeatedly and continuously contacted Plaintiff on her home and cellular telephones in its attempts to collect a consumer debt of other persons.

13. Plaintiff received phone calls and voicemail messages from Defendant on a number of occasions from the following phone numbers: (800) 550-9619 and (800) 445-4918, which the undersigned has confirmed are phone number for Defendant.

14. Defendant placed repeated calls to Plaintiff's home and cellular telephones almost everyday, sometimes calling as frequently as two (2) to three (3) times a day.

15. For example, Defendant contacted Plaintiff on her cellular telephone on: January 30, 2012, at 4:00 p.m.; January 31, 2012; February 1, 2012, at 4:12 p.m.; February 2, 2012, at 1:30 p.m.; February 3, 2012, at 12:13 p.m.; February 6,

1 2012, at 4:21 p.m.; February 7, 2012, at 5:15 p.m.; February 8, 2012, at 1:38 p.m.;  
2 February 9, 2012, 2:47 p.m.; February 14, 2012, at 2:08 p.m.; February 15, 2012,  
3 at 2:15 p.m.; February 16, 2012, at 3:00 p.m.; February 20, 2012, at 9:00 a.m.;  
4 February 21, 2012, at 2:42 p.m.; and February 22, 2012, at 3:40 p.m.

5  
6 16. In addition to calling Plaintiff, Defendant would leave messages on  
7 Plaintiff's voicemail.

8  
9 17. In its voicemails, Defendant identified the debtors as individuals other  
10 than Plaintiff.

11 18. In an effort to get the calls to stop, Plaintiff called Defendant.

12 19. During this call Plaintiff spoke with a supervisor employed by  
13 Defendant.

14 20. This supervisor told Plaintiff that Defendant was calling Plaintiff's  
15 number looking for multiple different people—none of which were Plaintiff.

16 21. Defendant gave Plaintiff a list of names of the people that Defendant  
17 was attempting to contact, but Plaintiff did not know any of them.

18 22. However, this did not deter Defendant, as it continued to call Plaintiff  
19 in an attempt to collect a debt owed by another person.

20 23. Additionally, on numerous occasions, Plaintiff answered Defendant's  
21 collection calls and informed its collectors that she is not the person they are  
22 looking for and to stop calling her.

15. Following these conversations between the parties, neither Defendant nor its collectors investigated or verified contact information prior to and after calling Plaintiff.

16. Defendant and its collectors failed to update its records to avoid further harassment of Plaintiff.

24. Instead, Defendant continued to contact Plaintiff in its attempts to collect consumer debts of other persons.

25. Most recently, Defendant contacted Plaintiff on February 21, 2012, at 2:42 p.m.

26. Prior to contacting Plaintiff on this day, Defendant searched a professional directory for psychotherapists and located Plaintiff's phone number in order to contact her.

27. Defendant's actions in attempting to collect the alleged debt were harassing, abusive and highly deceptive.

**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES  
ACT**

28. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

## COUNT I

29. Defendant's conduct, detailed in the preceding paragraphs, violated  
15 U.S.C. §1692b(3).

- a. Section 1692b(3) of the FDCPA prohibits a debt collector from communicating with any person other than a consumer more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.

b. Here, Defendant violated §1692b(3) of the FDCPA by communicating with Plaintiff more than once about a “Rachel Wilkins” and a “Robert Phelps.”

c. Defendant knew that Plaintiff did not have correct or complete location information about these people as Plaintiff repeatedly informed Defendant that she did not know these individuals.

## COUNT II

30. Defendant's conduct, detailed in the preceding paragraphs, violated  
15 U.S.C. §1692c(b).

a. A debt collector violates §1692c(b) of the FDCPA by communicating, in connection with the collection of a debt, with a

any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector, without the prior consumer of the consumer given directly to the debt collector.

- a. Here, Defendant violated §1692c(b) of the FDCPA when it communicated, in connection with the collection of a debt, with Plaintiff about the debts of other people, “Rachel Wilkins” and a “Robert Phelps,” and Plaintiff did not know these people.

### **COUNT III**

31. Defendant’s conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

- b. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequences of which is to harass, oppress or abuse any person in connection with the collection of a debt.
- c. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.

d. Defendant violated §§1692d, and 1692d(5) of the FDCPA when it caused Plaintiff's telephone to ring almost everyday, calling at least two (2) times each day, and sometimes calling as frequently as four (4) times a day, with the intent to annoy, abuse and harass Plaintiff.

**COUNT IV**

27. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §1692f.

- a. Section 1692f of the FDCPA prohibits a debt collector from using unfair or unconscionable means to collect or attempt to collect any debt.

b. Defendant violated §1692f of the FDCPA when it called Plaintiff regarding debts of other persons, despite knowing that Plaintiff was not the person that they were seeking and having been instructed by Plaintiff to stop calling her.

WHEREFORE, Plaintiff, JACQUELINE KURTA, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);

- 1 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
- 2 pursuant to 15 U.S.C. §1692k(a)(2)(A);
- 3 c. All reasonable attorneys' fees, witness fees, court costs and
- 4 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
- 5 §1693k(a)(3); and
- 6 d. Any other relief deemed appropriate by this Honorable Court.

7

8 **DEMAND FOR JURY TRIAL**

9

10 PLEASE TAKE NOTICE that Plaintiff, JACQUELINE KURTA, demands

11 a jury trial in this case.

12

13

14 RESPECTFULLY SUBMITTED,

15 DATED: 04/13/2012

16 KIMMEL & SILVERMAN, P.C.

17 By: /s/ Craig Thor Kimmel  
18 CRAIG THOR KIMMEL  
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